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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

GOOGLE INC., a Delaware corporation,

Civil No.: 09-642-HU

Plaintiff,

v.

TRAFFIC INFORMATION, LLC, a Texas
limited liability company,

Defendant.

**SECOND DECLARATION OF KEVIN
L. RUSSELL IN SUPPORT OF TRAFFIC
INFORMATION, LLC'S MOTION TO
DISMISS FOR LACK OF SUBJECT
MATTER JURISDICTION AND
ALTERNATIVE MOTION TO
TRANSFER VENUE**

I, Kevin L. Russell, declare:

1. My name is Kevin L. Russell. I am over the age of twenty-one years and am competent to make this declaration based on my personal knowledge. I am the manager of Traffic Information, LLC ("Traffic"). I offer this declaration in support of Traffic Information, LLC's Motion To Dismiss For Lack Of Subject Matter Jurisdiction And Alternative Motion To Transfer Venue.

2. I am one of the named inventors on U.S. Patent No. 6,466,862 ("the '862 patent") and U.S. Patent No. 6,785,606 ("the '606 patent") (collectively "the patents-in-suit").

3. I agree to voluntarily appear in Marshall, Texas to testify before and submit to the jurisdiction of the United States District Court for the Eastern District of Texas, Marshall Division, in connection with any present or future lawsuits in that court related to the patents-in-suit.

4. The confidential email referred to in paragraph 6 of my earlier declaration in this action (dated August 13, 2009) was sent on April 13, 2009 from Texas by Jeff David, one of the lawyers at Polasek, Quisenberry & Errington, LLP representing Traffic in the T-Mobile and other actions pending in Texas, to Ben Hershkowitz in New York City, a lawyer at Gibson, Dunn & Crutcher representing T-Mobile in the T-Mobile action in Texas. It was Traffic's understanding and expectation that the email would be kept confidential by T-Mobile. The contents of the email include confidential information known only to Traffic about the T-Mobile case, which information Traffic has not shared or disclosed outside of Traffic or T-Mobile. The confidential information at issue here, upon which Google bases its allegation of declaratory jurisdiction, is the entire email communication, not merely the phrase "traffic feature".

5. The third lawsuit listed in paragraph 3 of my August 13, 2009 Declaration has now been dismissed. All of the lawsuits Traffic has pending in the Eastern District of Texas are pending before the same Judge (Hon. T. John Ward), involve one or both of the patents-in-suit, and no motions to consolidate or transfer have been filed in any of those pending cases.

6. I am unaware of any general rule in the District of Oregon that patent cases go to trial within one year of filing. To the contrary, it is not unusual for patent cases in this district to take three years or more from filing to trial. For example, in *Smith & Nephew Incorporated v. Arthrex, Incorporated*, Civil Action No. 3:04-cv-00029-MO, the action was filed in January 2004 and first went to trial in June 2007, a time period of about three and a half years. Similarly, in *CollegeNET, Inc. v. Xap Corporation*, Civil Action No. 3:03-cv-12229-BR, the action was filed in September 2003 and went to trial in September 2006, a time period of three years.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18 day of September, 2009.



KEVIN L. RUSSELL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 18th day of September, 2009, with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served by, electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ C. Dale Quisenberry